any of the aforementioned material facts (*see, e.g.*, ¶¶ 34-37), by the marketing the sale of the book under false pretense (*Id.*), and by engaging in the conduct alleged herein (*Id.*), proximately caused damage to Plaintiff and the Class who, by virtue of said conduct, did not buy (or get to read) what they reasonably expected.

39. The Defendants' mutual misrepresentation of the book as a memoir and a true and honest work of non-fiction, and concealment of crucial non-true stories that were built-in to dramatize the book, constitutes a deceptive practice and false promise and false pretense for purposes of selling the book to induce sales, in violation of ICFA.

40. The Defendants' above-stated conduct constitutes a continuing threat to the consuming public.

41. The Defendants should account for all monies improperly collected from sales of the book, should have a constructive trust imposed on said monies until further order of the Court, and should be enjoined from continuing the sale of the book.

COUNT II
Breach of Contract

42. Plaintiff realleges and incorporates by reference the preceding paragraphs of the Complaint.

43. Each of the Defendants, as alleged herein, mutually and collectively offered the book, *A Million Little Pieces*, to Plaintiff and the Class as a "memoir" and as a true non-fiction story.

44. Plaintiff and the Class accepted the Defendants' offer and paid for the book (including applicable taxes) as represented, i.e., as a memoir and non-fiction story, and paid consideration therefore.

Dockets.Justia.com

45. The Defendants breached their contract with Plaintiff and the Class, in that, in truth and in fact *A Million Little Pieces* is not a memoir and is riddled with falsehoods and untruths.

46. As a result of the Defendants' breach, Plaintiff and the Class have been damaged, to the unjust enrichment of each of the Defendants, whose respective profits and revenues therefrom should be refunded and disgorged to Plaintiff and the Class.

COUNT III
Breach of Contract Implied in Law
– Pleaded in the Alternative

47. Plaintiff realleges and incorporates by reference the preceding paragraphs of the Complaint.

48. Each of the Defendants receive monies from sales of *A Million Little Pieces,* and each of the Defendants are unjustly enriched by sums they each illicitly recouped from Plaintiff and the Class, through their wrongful conduct as alleged herein.

49. The Defendants engaged in a concerted pattern of conduct, whereby Plaintiff and the Class, due to the Defendants' false and unfair marketing and depiction of the book as a memoir and true an honest work of non-fiction, remitted monies for the purchase of *A Million Pieces,* which unfairly inured to the benefit of each of the Defendants.

50. The amount of money paid by Plaintiff and the putative Class members, and received by the Defendants, for the purchase of the books at issue, exceeds the amount to which the Defendants are entitled, in that the book was falsely represented as a memoir, as non-fiction, and as a true and genuine story of an individual's trials and admirable rehabilitation as a drug addict.

51. As a result, the Defendants have unjustly retained the amount of payments they received from Plaintiff and the Class resulting from the purchase of the book, in breach of the

Defendants' contracts with Plaintiff and the Class for the sale of the book, which are implied in law; and the retention of said monetary benefits violates the principles of justice, equity, and good conscience.

52. The Defendants should account for all monies improperly collected from sales of the book, should have a constructive trust imposed on said monies until further order of the Court, should disgorge all profits collected from the sale of the book and should be enjoined from continuing the sale of same.

PRAYER FOR RELIEF

Wherefore, Plaintiff, individually and on behalf of all others similarly situated, prays that this Honorable Court:

A. Certify this case as a class action, and appoint Plaintiff as class representative and Plaintiff's counsel as class counsel;

B. Award such damages and equitable relief to Plaintiff and the Class as the Court deems appropriate;

C. Find that each of the Defendants violated the ICFA, and were unjustly enriched or alternatively breached their contracts with Plaintiff and the Class, as alleged herein;

D. Award reasonable attorney's fees and costs; and

E. Grant such other relief as it deems just.

By: ______________________
One of Plaintiff's Attorneys

Larry D. Drury
Ilan Chorowsky
Larry D. Drury Ltd.
205 W. Randolph Street, Suite 1430
Chicago, IL 60606
(312) 346-7950
Atty. No. 22873

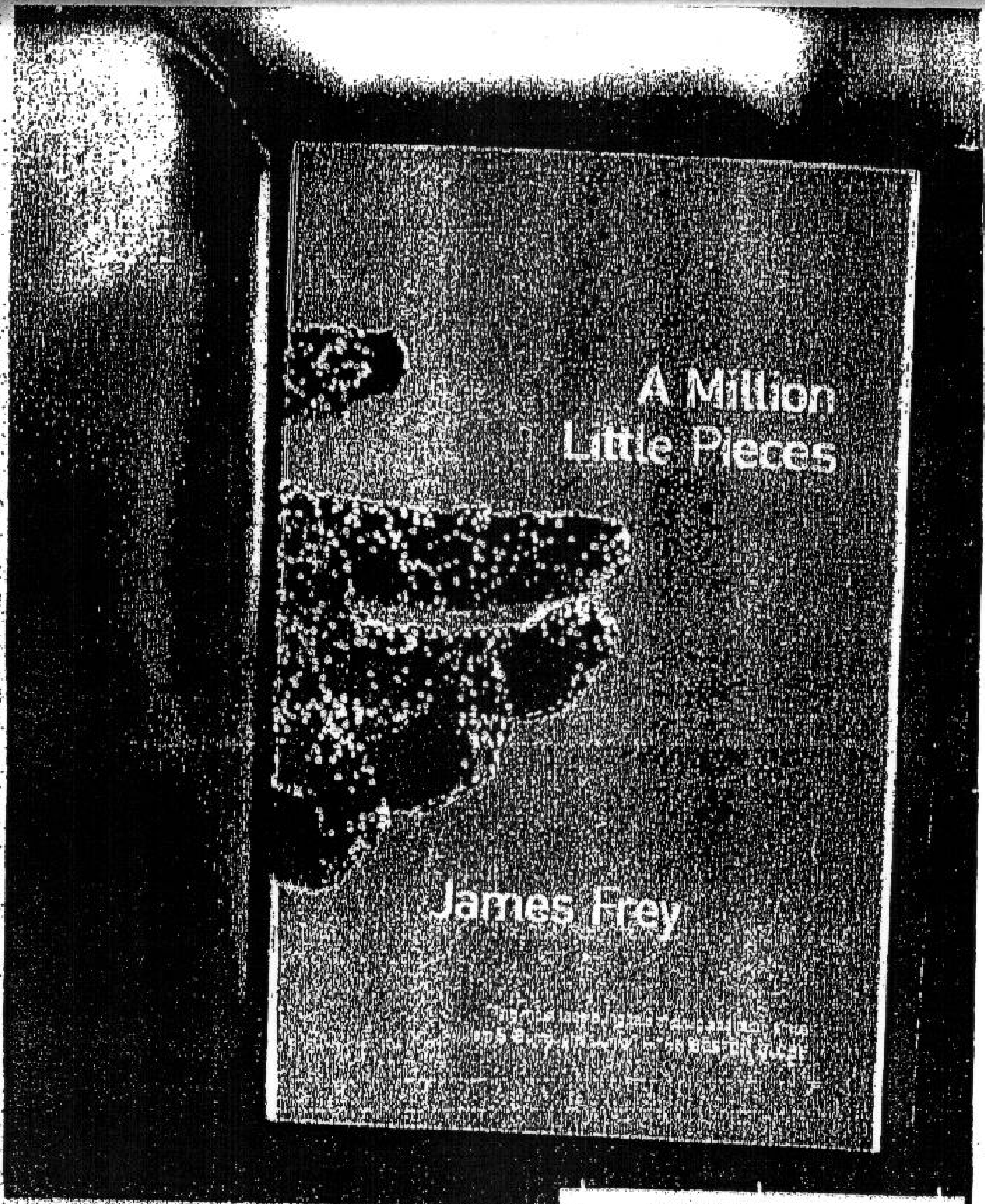
A Million
Little Pieces
James Frey

Exhibit A

Memoir/Literature

"James Frey's staggering recovery memoir could well be seen as the final word on the topic." —San Francisco Chronicle

At the age of 23, James Frey woke up on a plane to find his front teeth knocked out, his nose broken, and a hole through his cheek. He had no idea where the plane was headed nor any recollection of the past two weeks. An alcoholic for ten years and a crack addict for three, he checked into a treatment facility. Shortly after arriving there he was told he could either stop using or die before he reached age 24. This is Frey's acclaimed account of the six weeks in rehab.

"Gripping. ... A great story. ... You can't help but cheer [illegible]" [illegible]

"Frey's book sets itself apart ... Spare, [illegible] language [illegible] the horror of what he's describing [illegible] telegrams [illegible]"

"Anyone who has ever fallen down and wished for a better life will find inspiration in Frey's story." [illegible]

"Riveting, gripping ... [illegible] are well-suited to his subject [illegible] the rise of the culture of compl[illegible]"

U.S.$14.95 Can. $21.00
ISBN 0-307-27690-2
51495
9 780307 276902